

IN RE: PETITION FOR ZONING VARIANCE  
E/S Helena Avenue, 150' N of  
Middleborough Road  
(219 Helena Avenue)  
15th Election District  
5th Councilmanic District  
Frederick Fleishmann, III, et ux  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 89-522-A

AMENDED ORDER

The Petitioners requested a variance to permit an open carport attached to the main building to have a setback of 2 feet in lieu of the required 7.5 feet in accordance with the plan submitted and identified as Petitioner's Exhibit 1;

WHEREAS, by Order issued July 25, 1989, Petitioners were denied the relief requested as a result of opposition by the Department of Environmental Protection and Resource Management (DEPRM);

WHEREAS, as a result of further discussions between DEPRM and Petitioners, an agreement was reached by both parties wherein Petitioners agreed to certain terms and conditions imposed by DEPRM;

WHEREAS, DEPRM is now in favor of granting the relief requested, subject to restrictions as set forth in their supplemental comments dated July 24, 1989, received in the Office of Zoning on August 16, 1989, and a request for reconsideration of the above-captioned matter was made by DEPRM on behalf of the Petitioners;

IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31st day of August, 1989 that the Order issued July 25, 1989 be and the same is hereby AMENDED and the relief requested in the Petition for Zoning Variance an open carport attached to the main building to have a setback of 2 feet in lieu of the required 7.5 feet, in accordance with

Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions, which are conditions precedent to the relief granted:

1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) Petitioners shall complete all improvements and/or corrections to existing improvements within 365 days of the date of this Order, unless an extension of time is granted for good cause. Petitioners shall provide written notification to the Zoning Commission-er's Office within thirty (30) days of the date of completion that the subject property is in compliance with the terms and conditions of the requirements set forth in the comments submitted by DEPRM and the restrictions imposed by this Order.

3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order; and,

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated July 24, 1989, attached hereto and made a part hereof

JRH:bjs

cc: Mr. & Mrs. Frederick Fleishmann, III  
219 Helena Road, Baltimore, Md. 21221

Chesapeake Bay Critical Areas Commission  
Taxes State Office Bldg., D-4, Annapolis, Md. 21404

DEPRM; People's Counsel; File

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IN RE: PETITION FOR ZONING VARIANCE  
E/S Helena Avenue, 150' N of  
Middleborough Road  
(219 Helena Avenue)  
15th Election District  
5th Councilmanic District  
Frederick Fleishmann, III, et ux  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 89-522-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an open carport attached to the main building to have a setback of 2 feet in lieu of the required 7.5 feet in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. There were no Protes-tants.

Testimony indicated that the subject property, known as 219 Helena Avenue, consists of .16 acres more or less zoned D.R. 5.5 and is located within the Chesapeake Bay Critical Areas. Petitioners propose constructing an open carport on the south side of the existing dwelling to provide shade and protection for the family vehicles. There was no further testimony or evidence presented to support the requested variance.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, there was insufficient evidence to support a finding that the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There was no testimony or evidence presented to support the relief requested other than as a matter of preference. In the opinion of the Zoning Commissioner, strict compliance with the B.C.Z.R. would not result in practical difficulty and/or unreasonable hardship upon the Petitioner.

ORDER RECEIVED FOR FILING  
Date 7/25/89  
By Robert W. Sheesley

ORDER RECEIVED FOR FILING  
Date 7/25/89  
By Robert W. Sheesley

The burden of proof is upon the Petitioners to introduce facts and evidence which would establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. Further, testimony must be presented evidencing that the granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is based upon conditions or circumstances which are the result of the Petitioner's actions, and does not arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is not in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and does not conform to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and

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3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

The Department of Environmental Protection and Resource Management is opposed to granting the relief requested due to a finding that the total impervious area of the subject property is 30%, where the sum of all total impervious areas shall not exceed 15% of a property located within the Critical Areas. These recommendations have been attached hereto and will become a permanent part of the decision rendered in this case. As a result of their findings, the relief requested is not in compliance with the Chesapeake Bay Critical Areas legislation and therefore must be denied. Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of July, 1989 that the Petition for Zoning Variance to permit an open carport attached to the main building to have a setback of 2 feet in lieu of the required 7.5 feet in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner for  
Baltimore County

JRH:bjs

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BALTIMORE COUNTY, MARYLAND 22 1989  
INTER-OFFICE CORRESPONDENCE  
**ZONING OFFICE**

TO: Mr. J. Robert Haines  
Zoning Commissioner

DATE: June 12, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 396  
Fleischman III Property  
Chesapeake Bay Critical Area Findings  
89-522-A

SITE LOCATION

The subject property is located at 219 Helena Road. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area, (LDA).

APPLICANT PROPOSAL

The applicant has requested a variance from section 301.1 of the Baltimore County Zoning Regulations to allow an open carport attached to the main building to have a setback of 2 feet in lieu of the minimum required 7.5 feet.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01. 0>

Memo to Mr. J. Robert Haines  
June 12, 1989  
Page 3

CONCLUSION

This project does not meet the requirements of the Chesapeake Bay Critical Area Law and therefore cannot be approved. Please contact Mr. David C. Flowers at 887-3980 if you require additional information.

Robert W. Sheesley  
Robert W. Sheesley, Director  
Department of Environmental Protection  
and Resource Management

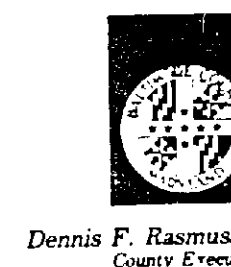
RWS:DCF:ju  
Attachment

cc: The Honorable Ronald B. Hickernell  
The Honorable Norman R. Lauenstein  
The Honorable Dale T. Volz

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3333

J. Robert Haines  
Zoning Commissioner

July 25, 1989



Dennis F. Rasmussen  
County Executive

Mr. & Mrs. Frederick R. Fleishmann, III  
219 Helena Avenue  
Baltimore, Maryland 21221

RE: PETITION FOR ZONING VARIANCE  
E/S Helena Avenue, 150' N of Middleborough Road  
(219 Helena Avenue)  
15th Election District - 5th Councilmanic District  
Frederick R. Fleishmann, III, et ux - Petitioners  
Case No. 89-522-A

Dear Mr. & Mrs. Fleishmann:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

cc: Chesapeake Bay Critical Areas Commission  
Taxes State Office Building, D-4  
Annapolis, Md. 21404

DEPRM

People's Counsel

File

ORDER RECEIVED FOR FILING  
Date 7/25/89  
By Robert W. Sheesley







Baltimore County  
Fire Department  
Towson, Maryland 21204-2586  
494-4500

Paul H. Rincke  
Chief

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204



Dennis F. Rasmussen  
County Executive

Re: Property Owner: Frederick Roland Fleischmann, III, et ux

Location: E.S. Helena Ave., 156' N of Middleborough Rd.

Item No.: 396

Zoning Agenda: April 4, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

EXCEEDS the maximum allowed by the Fire Department.

( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

( ) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Pat Keller* Noted and Approved: *Robert W. Sheesley*  
Planning Group Fire Prevention Bureau  
Special Inspection Division

/s/

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: May 17, 1989

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting  
for April 4, 1989

The Developers Engineering Division has reviewed the zoning items for the subject meeting and we have no comments for Items 274, 355, 383, 388, 392, 393, 394, 395, 396, and 398. Comments are attached for Items 384 and 397.

*Robert W. Bowling*  
ROBERT W. BOWLING, P.E., Chief  
Developers Engineering Division

RWB:s

Encls.

MAY 19 1989

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines  
Zoning Commissioner

DATE: July 24, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 396  
Fleischman property  
Chesapeake Bay Critical Area Findings

RECEIVED

AUG 16 1989

ZONING OFFICE

SITE LOCATION

The subject property is located at 219 Helena road. The site is within the Chesapeake Bay Critical Area and is classified as a limited development area (LDA).

APPLICANT'S NAME Mr. and Mrs. Frederick Fleischman

APPLICANT PROPOSAL

The applicant has requested a variance from section 301.1 of the Baltimore County Zoning Regulations to allow a patio roof attached to the main building to have a setback of 2 feet in lieu of the minimum required 7.5 feet.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01>

Memo to Mr. J. Robert Haines  
July 24, 1989  
Page 2

REGULATIONS AND FINDINGS

1. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

Findings: The proposed construction will not increase the total sum of impervious surfaces. However, the property has existing impervious surfaces that sum to 30% of the lot and therefore any future projects that increase this sum will not be approved.

2. Regulation: "Infiltration of storm water shall be maximized throughout the site, rather than directing flow to single discharge points" <Baltimore County Code, Sec. 22-217(a)(2)>.

Findings:

a. Storm water runoff shall be directed from impervious surfaces associated with this petition to pervious areas to encourage maximum infiltration.

b. Rooftop runoff shall be directed through down-spouts and into a dry well of approved design to encourage maximum infiltration (see attached information).

3. Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination." <Baltimore County Code Sec. 22-96>

Findings: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site.

4. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-213(a)>.

Findings: This property is located approximately 200 feet from Hopkins Creek, and therefore is in compliance with the regulation stated above.

7. Regulation: "If no forest or developed woodland exists on a developed site these sites shall be planted to provide forest or developed woodland cover of at least 15%" <COMAR 14.15.02.04 C.(5)>.

Findings: The following plant material shall be selected from the enclosed list and planted in addition to existing vegetation to provide a 15% forested cover.

Shrub and small tree list: three items - ball and burlap or 2 gallon container size

Memo to Mr. J. Robert Haines  
July 24, 1989  
Page 3

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and findings listed above. Upon compliance with Chesapeake Bay Critical Area Regulations, this project shall be approved. Please contact Mr. David Flowers at 887-3980 if you require additional information.

*Robert W. Sheesley*  
Robert W. Sheesley, Director  
Department of Environmental Protection  
and Resource Management

RWS:DCF:ju  
Attachment

cc: The Honorable Ronald B. Hickernell  
The Honorable Norman R. Lauenstein  
The Honorable Dale T. Volz

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines DATE: July 31, 1989

FROM: Mr. David C. Flowers

SUBJECT: Fleischman III property

Please find enclosed a revised finding pertaining to Mr. and Mrs. Fleischman's property. Additional information submitted after the hearing has indicated that no increase in impervious surfaces will be created. The applicants have met with me and agree to comply with all other critical area requirements. If there are further questions please contact myself or Nancy Sanford at ext. 3980.

NSS:ju

RECEIVED

AUG 11 1989

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner

DATE: May 31, 1989

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

RECEIVED

JUN 1 1989

ZONING OFFICE

Case No. 89-522-A  
Item No. 396

Re: Frederick R. Fleischmann, III, et ux

The Petitioner requests a variance to allow a side yard setback for a carport of 2 feet in lieu of the required 7.5 feet. In reference to this request, staff offers no comment.

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AUG 21 1989

ZONING OFFICE

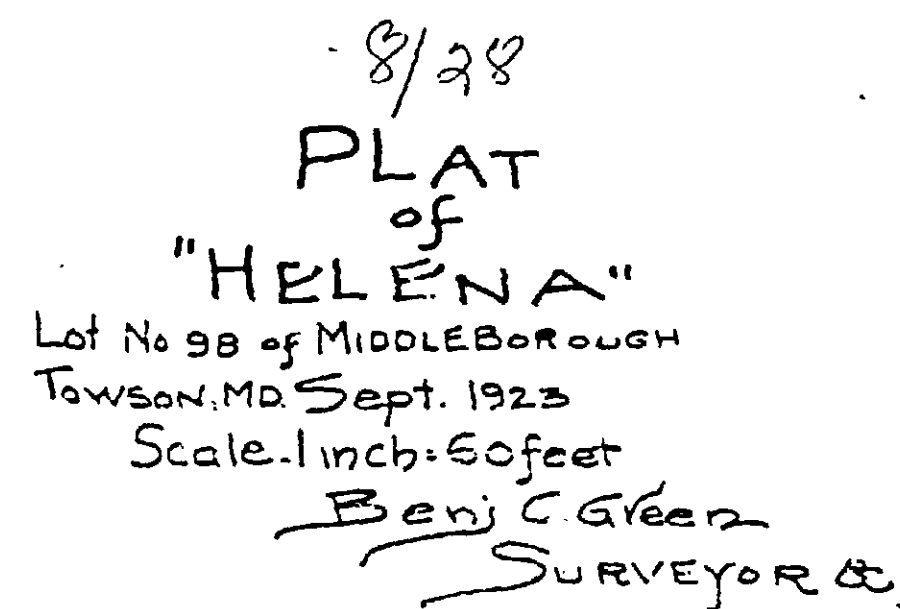
219 Helena Road  
Baltimore, MD 21221  
August 18, 1989

J. Robert Haines, Zoning Commissioner  
Office of Planning and Zoning  
111 W. Chesapeake Ave., Room #109  
Towson, MD 21204

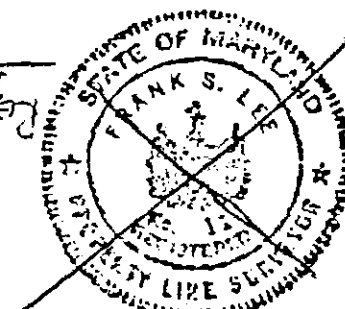
Dear Mr. Haines,

I am writing to you requesting a motion for reconsideration of your decision rendered July 28, 1989 on my petition for zoning variance, case number 89-522-A. This request is based on comments from Robert Sheesley, Director of Environmental Protection and Resource Management, addressed to you on July 24, 1989. Thank you in advance for your prompt attention to this matter.

Sincerely,  
*Frederick R. Fleischmann*  
Frederick R. Fleischmann



15TH DISTRICT BALTIMORE CO., MARYLAND  
SCALE: -1" = 30' DATE: 2-6-89  
LT. SIZE 7125.0 SQ. FT. .162 ACRES  
OWNER: FREDERICK & LINDA FLEISCHMANN  
ZONED DR. S.S.  
UTILITIES IN PLACE ON HELENA AVE



FRANK S. LITE  
1277 NEIGHBORS AVE  
B-LTHORPE, MD. 2123